

BROWNFIELDS STUDY GROUP MEETING MINUTES February 25, 2000

Attendees:

Cami Peterson
Darsi Foss
Mark Giesfeldt
Jason Scott
Jackie Jarvis
Peggy Lescrenier
John M. Antaramian
Thomas J. Mueller
Michael Sachen
John Stibal
Jeff Gohlke
Doug Meinhardt
Jerry Hall
Peter McAvoy
Sam Tobias
Nancy Frank
Art Harrington
Michael Prager
Richard Moens
Marc Weinberger

John Stricker
Loren Brumberg
Percy Mather
Tom Bergamini
Joy Stieglitz
Manyee Wong
Kevin Kessler
Pat Stevens
Tim Wood
Joe Renville
Eric Ebersberger
Mark Werner
Jessica Milz
Andrew Savagian
Dale Darrow
Valerie Thomas
Pat Sullivan
Brian Borofka
Vickie Moy
Pam Schaefer
Bruce Keyes

Introduction Agenda Repair

Brownfields Study Group Update

*Brief background (Andrew Savagian, DNR)

*Ground Rules: short discussion, majority of group agreed to stay with the same process as before, but spell it out in the ground rules

*Loren Brumberg, John Stricker, Joy Stiglitz also wanted a more formal process that occurs within the subcommittees to do a better job of packaging issues for the Study Group, so when the issue reaches the Study Group there is a good idea of consensus on this issue

*Darsi Foss: also add something in the Study Group ground rules that mentions the GOAL of the subcommittee and Study Group to reach consensus

*DNR staff will also facilitate more work among the subcommittee chairs

*Study Group agreed to the time line and dates for meeting, producing recommendations and finalizing report; DNR staff will put this information on the Study Group's web site

[NOTE! THE LAST STUDY GROUP MEETING, SCHEDULE FOR OCTOBER 13TH, HAS A CONFLICT; THE SUBCOMMITTEE CHAIRS WILL MEET WITH DNR STAFF AND PROPOSE AN ALTERNATIVE DATE. A.S.]

Brownfields Study Group Time Line

- *Feb. 25: Study Group Meeting (schedules, call for issues, etc.)
 - *April 28: Study Group Meeting (updates, special issues, etc.)
 - *June 23: Study Group Meeting (subcommittee updates, etc.)
 - *July 21: Study Group Meeting (draft recommendations due; subcomm. updates)
-- August: take a deep breath --
 - *Sept. 1: Final Subcommittee recommendations due
 - *Sept. 22: Study Group Meeting (informational; review draft recommendations)
 - *Oct. ??: Final Study Group Meeting (finalize report; final comments due)
 - *Oct. 20: Absolute FINAL Date for all comments to report
 - *Oct. 31: Report Submitted To Legislature**
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Subcommittee Update & Call For Issues

[PLEASE NOTE: this list includes issues written on the flip chart; the subcommittee chairs will meet and sort through any overlaps.]

***PLEASE EMAIL SUBCOMMITTEE STATE ASSISTANTS IF YOU HAVE AN ISSUE TO PUT ON THE SUBCOMMITTEES' DOCKET (Local Government: Cami Peterson, peterc@dnr.state.wi.us; Financial Incentives: Jessica Milz, milzj@dnr.state.wi.us; Liability: Michael Prager, pragem@dnr.state.wi.us)**

*Group agreed that DNR staff need to put out a lists of issues to discuss on the Study Group Subcommittee web pages; also, it was agreed that the subcommittee chairs will use their discretion in dealing with issues that come up (deadlines, workload, etc.)

Liability Subcommittee – Chair: Art Harrington; State Assistant: Michael Prager

*interim liability exemptions for voluntary party status when there is a remediation that takes place over time; current situation may not be practical

*inter-relationships between solid waste rules and the exemptions issues on liability; committee needs to get involved in the decision-making process for this effort

*municipal liability exemption review; look at it's breadth, whether or not theirs a need for greater expansion, also review it as it relates to the hazardous waste issue; cities are taking the lead a lot more....whether there's any potential mechanism for transferability (this may also be taken up with the local government subgroup)

*private cause of action, cost recovery for private sector (also may be taken up by local gov't. subgroup)

*exemptions as they relate to the developing insurance markets

*use of DNR's enforcement discretion as it relates to brownfields as a whole

*S. 292.35

*negotiation and cost recovery issues (also with lgu group); Mark G.; Thimke, Jim Lonsdorf, John Robinson et. Al. Already working on it

*sediment issue: people owning up to the contamination in the river, liability

Financial Incentives Subcommittee – Chair: John Stibal; State Assistant: Jessica Milz

*general examination of current funding programs (Env. Fund, Land Rec. Loan, Site Ass. Grant, Stewardship, Tax Credit, BEBR, BF Grants, ER TIF, Ag Chem Fund, DOA, SUDZ); this is a separate review than the one required in the last biennial budget

*Potential incentives or penalties to large companies to obtain mothballed bf properties

*Examine \$10 million funding for assistance for needy families (TANF)

*Discuss proposal for community redevelopment fund program

*BF GRANT program – funding and flexibility

*New name for brownfields sites that are not longer brown

*Michigan bf financial program

*Federal funds for bf; according to Bruce Keyes, Congressman Barrett would be willing to come talk to us, right now revolving loan fund not working so well, but we should still use other sources; he needs a specific task list; his aide Peter Sampson could come talk to us; Joy – talk to IL folks; used 6 comm.'s joined together to work on how to use the fed \$\$

*Possible use of gaming revenues

*BF grant program, needs being met by current criteria; able to shuffle money from one project to another

*Hud's assistance; job creation is significant part; max grant is \$2M; national competition for \$15M; not sure if WI cities has ever won any

In regards to the DNR's BEAP program, Darsi Foss noted that the funding has been cut back...have just a few BEAP properties this year

Local Government Subcommittee – Chair: John Robinsin; State Assistant: Cami Peterson

Cami went over issues not passed from last study group

*ER TIF and what costs are and not eligible; making sure insurance is there on the back end

*property valuation; DOR valuation of contaminated mfg. properties; ch. 75

*municipal cause of action

*municipal settlement policy; committee will be meeting (Mark Giesfeldt mentioned already)

*blight and slum authority

*tracking implementation of budget items

Jackie Jarvis: financial subgroup should also look at this as well

Joy: will who hammered out the differences?

Andrew Savagian: responsibility of the subcommittee chairs; will be meeting via phone to do just that

Section 75 of the statutes: tax delinquent properties...counties have to go through a competitive bidding process to get rid of these properties – exemption from the state bidding process as it relates to bf

Bruce Keyes: some language being taken up already by legislature

John Antaramian; cities and muni's may have problem if they are not allowed to approve or be a part of the right to object

PLEASE NOTE! Review chapters 4, 5 and 6 in the Brownfields Study Group Report, and submit any issues you feel should be reviewed by the Study Group's subcommittees.

Agency Updates

Dept. of Commerce – Jackie Jarvis

1. Brownfields Grant

- 10 mill to 26 projects
- new jobs and increased tax value
- 4 projects finished – 1 exceeded expectations Incryco & Babcock & Wilcox
- overwhelming interest and demand for grants – 4:1 ratio of interest to ability to grant
- announcing 3rd round currently: 4 have been announced for \$15 mill
- would like more flexibility for funding – smaller community grants requirement means they are not able to fund some of best projects
- would like to see continuing appropriation – some projects don't use/need all their money and Com can't transfer that money to other projects
- need permanent funding source
- will be proposing items to address clients' needs – redevelopment historic buildings, etc. – to encompass new funding needs (projects that don't score well on the job creation requirement) (projects adjacent to brownfields) (Main street Program)
- will discuss in financial subgroup

Sam Tobias – what about non-residential or non-commercial projects (open space)? Demonstrated need for park space should be considered - - if money gets divided into different pools, one would be for projects like parks

2. BEBR

- 2.5 million, federally funded
- based on population, non-entitlement community (counties not Wauk or Milw, maybe Dane, City of Superior)
- different uses: site assessments, cleanup – different dollar amounts
- not as much interest – federal requirements make it harder to use, communities don't know much about it
- shall be used for projects that may not have jobs committed
- much more stringent than the BF Grant Program
- 1999 – 4 grants awarded
- looking at modifications to program
- may look into using for non-environmental cost (ex. demolition)
- trying to parallel activities of BF Grant and BEBR

3. Tax Credits

- Environmental Remediation Tax Credit (50%) and Jobs Tax Credit
- used in community or enterprise development zones
- in past tax credits were linked – now 10 new zones can be remediated with just one, remediation tax credit
- the zones are pre-existing (about 40 EDZ, 18 CDZ) based on economic distress, you can apply to get a zone created
- financial subcommittee will look at some of the problems with the credits
- maybe look at some other states' programs

subgroups should come back with summary about some of the hotter issues, rather than waiting for write-up (i.e. tax credits), get more broader feedback

DNR

1. Land Recycling Loan – Pat Sullivan
 - 20 million for funding
 - City of Amery is receiving first loan (landfill)
 - City of Hartford is applying (air spargin?)
 - 17.7 still available
 - 26 mil in ITAs received, so it is unlikely that a late IT will be considered
 - List of ITAs passed around
 - New administerer is Maureen Hubeler (replacing Tom Reardon)
 - April training sessions coming up
 - Once 20 mil is gone, it's gone
 - No provision for recycling repayment into more money
 - No sunset on program – another cycle will start next year if funds still available
 - Federal requirements? (Jeff Gohlke) not clear
2. SAG – Percy Mather, Pat Sullivan, Valerie Thomas
 - NR167 admin code is being developed (CFA code)
 - Creation of the last budget, 292.75
 - mill for this biennium
 - site invest, demo, removal of aband containers, UST removal – some of the eligible activities
 - first advisory committee mtg yesterday
 - focusing on development of code
 - extremely ambitious time line – meeting weekly until March – because money will disappear
 - go before NRB at May 23, 24 meeting
 - update at next meeting, April 28
 - looking for flexibility in code, to account for possibility of continuing the program
 - minimize burden of application process, stress outreach
 - integrate with existing programs
 - will be looked at in LGU and Financial subgroups
 - schedule is available from Percy, meetings announced on website
 - tentatively, late summer will be start of grant awards
3. SUDZ – Cami Peterson
 - Out of Study Group
 - 5 cities designated to receive money (pilot program)
 - met with cities, DNR, Com, DOT
 - rules not required, writing 5 intergovernmental agreements
 - most cities have good plans of how to use money, how to work in conjunction with other existing programs
 - July 1 is hopeful deadline to sign agreements, funds may need to be spent by end of biennium
4. Insurance – Michael Prager
 - 2 budgetary changes to 292.15 (VPLE) related to insurance
 - 1 – COCs with NA, environmental insurance when NA
 - writing emergency rules for the environmental insurance
 - 2 – interim liability protection, required to get env insurance
 - not emerg rule authority for this one
 - NR754 and NR756 being looked at

- Forming advisory committee, letters of invitation will go out next week, had to limit number of members but open to everyone
- 1st meeting on March 21
- number of challenging policy issues – NA req is discretionary, how long to maintain ins, process of getting ins, when NA is failed, etc etc
- working with DOA Risk Management
- working with insurance companies to figure out premiums, times, deductibles – sounds very expensive
- question to group – Is this the best solution for the market? Question for Liability Subgroup

5. Spring Workshops – Andrew Savagian

Five dates and locations – highlight state agency programs, bf highlights in last budget, bf study group, success stories....

Other programs – due to time these were tabled for future meetings

Solid Waste/RR Streamlining

(NOTE: please see handouts that were emailed on February 18)

Hazardous Waste – Mark Giesfeldt, Kevin Kessler, DNR

Hazardous Waste issues – decision was made we need to seek EPA’s “approval”; to do that the environmental commissioners of the state had established a process with EPA/Browner to apply the NR 700 process for cleanups

Darsi: also on RCRA/Brownfields pilot, and we’re working on a pilot program to do NR 700 for haz. waste cleanup; did get their initial approval when NR 700 happened, but not when NR 700 was amended later (and included NA as a remedy in certain situations)

Mark G.: there was a briefing on this about a month ago; received a favorable response from those briefed about the work done to this point, however, some concern about EPA reviewing/approving our work; EPA is divided between program and enforcement, and EPA’s enforcement effort has not embraced the DNR effort

Mark is also doing some work on EPA’s four cleanup programs; good news is that the program portion of EPA strongly support what DNR is doing; bad news is that they confirmed that EPA’s enforcement staff is not as supportive

Art Harrington: for background; this came out of the Study Group’s Liability Subcommittee, and the Study Group was focused on resolving the RR/Waste streamlining issues, which Gene Mitchel will talk about later

Tom Mueller: what was the decision of the smaller group

Mark: they liked the drafting instructions, though Mark Thimke thought it was a risk

John A.: Not sure why we’re worried about trying to implement this program; everyone talks about wanting to help us do brownfields redevelopment, now they would try to stop us from doing it? It doesn’t make sense to me

Tom M.: who’s working with EPA on this?

Mark Giesfeldt: Mark Gordon, Kevin Kessler, Sue Bangert, Mark G., Darsi Foss, Linda Weiss working on the details; George Meyer is involved in this also

Bruce K: is there a role for Study Group members in this effort?

Mark G.: urge the members to support our efforts

Darsi: summarize the drafting instructions as it relates to a brownfields site; get safe, cleaned up, redeveloped site but one that is fairly streamlined;

EPA Pilot – Darsi Foss

Within the Superfund group is where BF is for the agency; the RCRA folks don't really have a bf program; so EPA's Superfund people got the RCRA folks to put together a RCRA bf pilot program; late December/early January sent out pilot proposals; Darsi Foss working with group to clarify how this program would work – we're one of seven pilots vying for this grant; they will choose three pilot proposals around March 15; want this RCRA/BF MOA to be similar to Superfund/BF MOA that we had; not a long shelf-life

Solid Waste Framework – Gene Mitchell

Briefly explained the framework document, and goals behind RR/Solid Waste efforts
Working in implementing the schedule; contact Gene Mitchell if you have any questions/comments

Overall Study Group feeling is in favor of this framework; Bruce Keyes suggested some of the Study Group members could contact Secretary's office to make their feelings on this issue known and will put together a draft of a letter summarizing the support

John Antaramian: a letter(s) on each issue is a good idea no matter what happens to the process

***Please submit comments to Andrew Savagian on these issues, which will be given to solid waste staff**

***Bruce Keyes and John Antaramian will circulate draft letter**